CV 12 - 1058

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALEX DERBAREMDIKER, Individually and on Behalf of All Others Similarly Situated, *Plaintiff,* -against- APPLEBEE'S INTERNATIONAL, INC., *Defendant.*	Civil Action No.: __________ **CLASS-ACTION COMPLAINT**

MATSUMOTO, J.

POHORELSKY, M.J

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y
★ MAR 1 - 2012 ★
BROOKLYN OFFICE

INTRODUCTION

1. This case arises out of deceptive sweepstakes practices by Applebee's International, Inc. ("Applebee's").

2. Applebee's seeks to induce its restaurant customers to complete a survey by representing, on the bills that Applebee's gives to its customers, that the customers' completion of a survey will cause them to be entered into a sweepstakes ("Applebee's Sweepstakes"). In describing the Applebee's Sweepstakes on its bills, Applebee's implies that participants in the Applebee's Sweepstakes compete for prizes only against other Applebee's Sweepstakes participants when, on the contrary, they compete against participants in the sweepstakes of approximately thirty businesses.

3. Applebee's also represents that the Applebee's Sweepstakes includes, in addition to a $1,000 prize, multiple prizes that are available to be won every day, when, on the contrary, there is, in addition to the $1,000 prize, only one other type of prize, which is a specific product; and only one such product is awarded each day (again, to one participant in the sweepstakes of approximately thirty businesses).

JURISDICTION AND VENUE

4. This Court has jurisdiction under 28 U.S.C. § 1332(d)(2)(A).

5. The matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)(2).

PARTIES

7. Plaintiff, Alex Derbaremdiker, is, and has been at all relevant times, a resident of the Eastern District of New York, and a citizen of the State of New York.

8. Defendant, Applebee's, is, and has been at all relevant times, a corporation organized and existing under the laws of Delaware, and maintains its principal place of business at 8140 Ward Parkway, Kansas City, Missouri 64114. Applebee's is a citizen of Delaware and Missouri.

FACTS

9. Applebee's operates restaurants, called "Applebee's," throughout the United States.

10. The bills that Applebee's gives to its customers state that "WE LOVE TO HEAR FROM OUR GUESTS!" and "We invite you to complete our GUEST EXPERIENCE SURVEY."

11. In order to encourage its customers to complete the "GUEST EXPERIENCE SURVEY," Applebee's states, on the bills that it gives to its customers: (1) "YOU COULD WIN $1,000[;] A WINNER EVERY DAY!"; and (2) "Other great prizes also available daily."

12. Participation in the Applebee's Sweepstakes requires a person, as stated on the bills, to "Go online to: www.MyApplebeesVisit.com."

13. Applebee's also states on its bills: "No purchase necessary. Must be 18 or older. Void where prohibited. See Website [www.MyApplebeesVisit.com] for rules/details."

14. On or about November 3, 2011, Plaintiff dined at the Applebee's restaurant at 2201

Nostrand Avenue, Brooklyn, New York 11210, was charged $53.54 and paid same (plus a voluntary tip), and thereafter participated in the Applebee's Sweepstakes by visiting www.MyApplebeesVisit.com and completing the survey.

15. Since in or about February, 2011, the other Class Members have participated, or will participate, in the Applebee's Sweepstakes by visiting www.MyApplebeesVisit.com and completing a survey.

16. Applebee's, in making the statements set forth in paragraph "11," implies that, every day, an Applebee's Sweepstakes participant wins $1,000.

17. Applebee's, in making the statements set forth in paragraph "11," implies that eligibility to win such multiple prizes is limited to Applebee's Sweepstakes participants.

18. Contrary to the implication that, every day, an Applebee's Sweepstakes participant wins $1,000, an Applebee's Sweepstakes participant competes for the daily $1,000 prize not only against other such participants but also against persons who participate in the sweepstakes of approximately thirty other businesses by visiting sweepstakes websites that pertain to those businesses.

19. There is not a $1,000 winner every day among Applebee's Sweepstakes participants.

20. The likelihood of an Applebee's Sweepstakes participant of winning $1,000 is a fraction of the likelihood that it would be if such participant were competing for such prize only against other Applebee's Sweepstakes participants.

21. Contrary to the representation that multiple prizes in addition to the $1,000 prize are available to be won every day by Applebee's Sweepstakes participants, there is only one other type of prize, which is a specific iPod product; and only one such product is awarded each day.

22. Contrary to the implication that eligibility to win a non-$1,000 prize is limited to

Applebee's Sweepstakes participants, an Applebee's Sweepstakes participant competes for such prize not only against other such participants but also against persons who participate in the sweepstakes of approximately thirty other businesses by visiting sweepstakes websites that pertain to those businesses.

23. The likelihood of an Applebee's Sweepstakes participant of winning a non-$1,000 prize is a fraction of the likelihood that it would be if such participant were competing for such prize only against other Applebee's Sweepstakes participants.

24. The completion of a survey by a person who participates in the Applebee's Sweepstakes is beneficial to Applebee's.

25. In equity and good conscience, Applebee's should not retain the benefits of the surveys that were completed by persons who did so participating in the Applebee's Sweepstakes, but should instead make restitution to those persons.

AS AND FOR A FIRST CAUSE OF ACTION
(Unjust Enrichment)

26. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "25" inclusive of this Complaint as if fully set forth herein.

27. By reason of the foregoing, Defendant has been unjustly enriched by retaining, against equity and good conscience, the benefits that Plaintiff and the other Members of the Class have conferred upon Defendant by completing a survey in the course of participating in the Applebee's Sweepstakes.

28. As a result of Defendant's unjust enrichment, Defendant should be required to make restitution to Plaintiff and the other Members of the Class.

AS AND FOR A SECOND CAUSE OF ACTION
(Consumer-Protection Laws)

29. Plaintiff repeats and realleges every allegation contained in paragraphs "1" through "25" with as full force as if fully set forth herein.

30. By reason of the foregoing, Defendant is liable as follows to those Class Members in the respectively listed jurisdictions:

Alabama
Deceptive Trade Practices Act, Ala. Code §§ 8-19-1 - 8-19-15

31. Defendant has violated Ala. Code § 8-19-5(27), entitling Class Members to $100 per violation under Ala. Code § 8-19-10(a)(1).

Alaska
Alaska Unfair Trade Practices and Consumer Protection Act, Alaska Stat. §§ 45.50.471 - 45.50.561

32. Defendant has violated Alaska Stat. §§ 45.50.471(a), (b)(11), and (b)(12), entitling Class Members to $500 per violation under Alaska Stat. § 45.50.531(a).

Arizona
Consumer Fraud Act, Ariz. Rev. Stat. §§ 44-1521 - 44-1534

33. Defendant has violated Ariz. Rev. Stat. § 44-1522(A), entitling Class Members to actual damages under *Freeway Mobile Homes Sales, Inc.*, 521 P.2d 1119 (Ariz. 1974).

Arkansas
Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101 - 4-88-503

34. Defendant has violated Ark. Code Ann. § 4-88-107(a), entitling Class Members to actual damages under Ark. Code Ann. § 4-88-113(f).

California
Unfair-competition law, Calif. Bus. & Prof. Code, §§ 17200-17210, and false-advertising law, Calif. Bus. & Prof. Code §§ 17500-17509

35. Defendant has violated Calif. Bus. & Prof. Code § 17500, entitling Class Members

to restitution and injunctive relief under Calif. Bus. & Prof. Code § 17203.

Connecticut
Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110a - 42-110q

36. Defendant has violated Conn. Gen. Stat. § 42-110b(a), entitling Class Members to actual damages, punitive damages in the discretion of the Court, and, as the Court deems necessary or proper, equitable relief, under Conn. Gen. Stat. § 42-110g(a).

Delaware
Consumer Fraud Act, 6 Del. C. §§ 2511-2527

37. Defendant has violated 6 Del. C. § 2513(a), entitling Class Members to actual damages under 6 Del. C. § 2525(a).

Washington, District of Columbia
Consumer Protection Procedures Act, D.C. Code §§ 28-3901 - 28-3913

38. Defendant has violated D.C. Code § 28-3904(e), entitling Class Members, who comprise persons who are consumers within the meaning of D.C. Code §§ 28-3901(a)(1) and (2), to $1,500 per violation under D.C. Code § 28-3905(k)(1)(A), punitive damages under D.C. Code § 28-3905(k)(1)(C), and injunctive relief under D.C. Code § 28-3905(k)(1)(D).

Florida
Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201 - 501.213

39. Defendant has violated Fla. Stat. § 501.204(1), entitling Class Members to actual damages under Fla. Stat. § 501.211(2).

Georgia
Fair Business Practices Act of 1975, Ga. Code Ann. §§ 10-1-390 - 10-1-407

40. Defendant has violated Ga. Code Ann. § 10-1-393(a), entitling Class Members, who comprise natural persons who made their purchases primarily for personal, family, or household purposes as provided by Ga. Code Ann. §§ 10-1-392(a)(6) and (10), to general damages, exemplary

damages if the violations were committed intentionally, and equitable injunctive relief under Ga. Code Ann. § 10-1-399(a), and three times actual damages Ga. Code Ann. § 10-1-399(c).

Illinois
Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 - 815 ILCS 505/12

41. Defendant has violated 815 ILCS 505/2, entitling Class Members to actual economic damages or any other relief that the Court deems proper under 815 ILCS 505/10a(a).

Kansas
Consumer Protection Act, Kan. Stat. Ann. §§ 50-617 - 50-6,115

42. Defendant has violated 50-626(b), entitling Class Members, who comprise individuals, married couples, sole proprietors, or family partnerships who made their purchases for personal, family, household, business, or agricultural purposes as provided by Kan. Stat. Ann. § 50-624(b), $10,000 per violation under Kan. Stat. Ann. §§ 50-634(b) and 50-636(a) and injunctive relief under Kan. Stat. Ann. § 50-634(c).

Kentucky
Consumer Protection Act, Ky. Rev. Stat. §§ 367.110 - 367.300

43. Defendant has violated Ky. Rev. Stat. § 367.170(1), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by Ky. Rev. Stat. § 367.220(1), to actual damages in the discretion of the Court, and equitable relief as the Court deems necessary or proper, in the discretion of the Court under Ky. Rev. Stat. § 367.220(1).

Louisiana
Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. §§ 51:1401 - 51:1418

44. Defendant has violated La. Rev. Stat. § 51:1405(A), entitling Class Members to actual damages under La. Rev. Stat. § 51:1409(A).

Maine
Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. Ann. §§ 205-A - 214

45. Defendant has violated 5 Me. Rev. Stat. Ann. § 207, entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by 5 Me. Rev. Stat. Ann. § 213(1), to actual damages, restitution, and such other equitable relief, including an injunction, as the Court determines to be necessary and proper under 5 Me. Rev. Stat. Ann. § 213(1).

Maryland
Consumer Protection Act, Md. Code Ann. §§ 13-101 to 13-501

46. Defendant has violated Md. Code Ann. §§ 13-301(1) and 13-301(9)(i), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, household, family, or agricultural purposes as provided by Md. Code Ann. §§ 13-101(c)(1) and 13-101(d), to actual damages under Md. Code Ann. § 13-408(a).

Massachusetts
Regulation of Business Practices for Consumers Protection, Mass. Gen. Laws ch. 93A

47. Defendant has violated Mass. Gen. Laws ch. 93A, § 2(a), entitling Class Members to $25 per violation, and between $50 and $75 per violation if such violations were committed willfully or knowingly under Mass. Gen. Laws ch. 93A, §§ 9(1) and 9(3), and such equitable relief, including an injunction, as the Court deems to be necessary and proper under Mass. Gen. Laws ch. 93A, § 9(1).

Michigan
Michigan Consumer Protection Act, Mich Comp. Laws §§ 445.901 - 445.922

48. Defendant has violated Mich Comp. Laws § 445.903(bb), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by Mich Comp. Laws § 445.902(d), to $250 per violation under

Mich Comp. Laws § 445.911 and injunctive relief under Mich Comp. Laws § 445.911(1)(b).

Minnesota
Minnesota Unlawful Trade Practices Act, Minn. Stat. §§ 325D.09 - 325D.16

49. Defendant has violated Minn. Stat. §§ 325D.44(13), entitling Class Members to actual damages and other equitable relief as determined by the Court under Minn. Stat. § 8.31(3a).

Mississippi
Mississippi Consumer Protection Act, Miss. Code Ann. §§ 75-24-1 - 75-24-27

50. Defendant has violated Miss. Code Ann. § 75-24-5(1), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by Miss. Code Ann. § 75-24-15(1), to actual damages under Miss. Code Ann. § 75-24-15(1).

Missouri
Merchandising Practices Act, Mo. Rev. Stat. §§ 407.010 - 407.1500

51. Defendant has violated Mo. Rev. Stat. § 407.020(1), entitling Class Members to actual damages, punitive damages in the discretion of the Court, and such equitable relief as the Court deems necessary or proper under Mo. Rev. Stat. § 407.025(1).

Montana
Montana Unfair Trade Practices and Consumer Protection Act of 1973, Mont. Code Ann. §§ 30-14-101 - 30-14-143

52. Defendant has violated Mont. Code Ann. § 30-14-103, entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by Mont. Code Ann. § 30-14-102(1), to $500 per violation and any other equitable relief that the Court considers necessary or proper under Mont. Code Ann. § 30-14-133(1).

Nebraska
Consumer Protection Act, Neb. Rev. Stat. §§ 59-1601 - 59-1622

53. Defendant has violated Neb. Rev. Stat. § 59-1602, entitling Class Members to actual

damages; additional damages, in the discretion of the Court up to$1,000, of an amount that bears a reasonable relation to the actual damages that have been sustained and which are not susceptible to measurement by ordinary pecuniary standards; injunctive relief, under Neb. Rev. Stat. § 59-1609.

Nevada
Deceptive Trade Practices Act, Nev. Rev. Stat. §§ 598.0903 - 598.0999

54. Defendant has violated Nev. Rev. Stat. § 598.0915(15), entitling Class Members to actual damages under Nev. Rev. Stat. §§ 41.600(1), (2)(e), and (3)(a).

New Hampshire
Regulation of Business Practices for Consumer Protection law, N.H. Rev. Stat. Ann. §§ 358-A:1 - 358-A:13

55. Defendant has violated N.H. Rev. Stat. Ann. § 358-A:2, entitling Class Members to $1,000 per violation, an additional amount between $1,000 and $2,000 if the violations were committed willfully or knowingly, and equitable relief, including an injunction, as the Court deems necessary and proper, under N.H. Rev. Stat. Ann. § 358-A:10(I).

New Jersey
Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1 - 56:8-195

56. Defendant has violated N.J. Stat. Ann. § 56:8-2, entitling Class Members to refunds under N.J. Stat. Ann. §§ 56:8-2.11 and 56:8-2.12, and three times actual damages and any other appropriate legal or equitable relief under N.J. Stat. Ann. § 56:8-19.

New Mexico
Unfair Practices Act, N.M. Stat. Ann. §§ 57-12-1 - 57-12-26

57. Defendant has violated N.M. Stat. Ann. § 57-12-3, entitling Class Members to $100 per violation and an additional amount of up to $200 in the discretion of the Court if the Court finds that the violations were committed willfully, and injunctive relief under the principles of equity and on terms that the Court considers reasonable, under N.M. Stat. Ann. § 57-12-10(A).

New York
Consumer Protection from Deceptive Acts and Practices law, N.Y. Gen. Bus. Law §§ 349 - 350-f-1

58. Defendant has violated N.Y. Gen. Bus. Law § 349, entitling Class Members to $50 per violation and injunctive relief under N.Y. Gen. Bus. Law § 349(h); and Defendant has violated N.Y. Gen. Bus. Law § 350, entitling Class Members to $500 per violation and injunctive relief under N.Y. Gen. Bus. Law § 350-e(3).

North Carolina
Monopolies, Trusts, and Consumer Protection Law, N.C. Gen. Stat. §§ 75-1 - 75-135

59. Defendant has violated N.C. Gen. Stat. § 75-1.1(a), entitling Class Members to three times their actual damages under N.C. Gen. Stat. § 75-16.

North Dakota
Unlawful Sales or Advertising Practices law, N.D. Cent. Code §§ 51-15-01 - 51-15-11

60. Defendant has violated N.D. Cent. Code § 51-15-02, entitling Class Members to actual damages, and an additional amount of up to twice that amount if the violations were committed knowingly, under N.D. Cent. Code § 51-15-09.

Ohio
Ohio Consumer Sales Practices Act, Ohio Rev. Code §§ 1345.01 - 1345.99

61. Defendant has violated Ohio Rev. Code § 1345.02(A), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household purposes as provided by Ohio Rev. Code § 1345.01(A), to actual damages, plus an amount not exceeding five thousand dollars in noneconomic damages, per violation under Ohio Rev. Code § 1345.09(A), and injunctive relief under Ohio Rev. Code § 1345.09(D).

Oklahoma
Oklahoma Consumer Protection Act, Okla. Stat. §§ 15-751 - 15-764.1

62. Defendant has violated Okla. Stat. § 15-753(20), entitling Class Members to actual

damages under Okla. Stat. § 15-761.1.

Rhode Island
Deceptive Trade Practices Act, R.I. Gen. Laws §§ 6-13.1-1 - 6-13.1-28

63. Defendant has violated R.I. Gen. Laws § 6-13.1-1(7)(xii)-(xiv), entitling Class Members to $200, and punitive damages and equitable relief in the discretion of the Court, under R.I. Gen. Laws § 6-13.1-5.2(a).

South Carolina
South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 - 39-5-170

64. Defendant has violated S.C. Code Ann. § 39-5-20(a), entitling Class Members to actual damages and, if violations were committed willfully or knowingly, an additional two times the amount of the actual damages and such other relief as the Court deems necessary or proper under S.C. Code Ann. § 39-5-140(a).

South Dakota
Deceptive Trade Practices and Consumer Protection Act,
S.D. Codified Laws §§ 37-24-1 - 37-24-48

65. Defendant has violated S.D. Codified Laws § 37-24-6(1), entitling Class Members to actual damages under S.D. Codified Laws § 37-24-31.

Tennessee
Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101 - 47-18-130

66. Defendant has violated 47-18-104(a), entitling Class Members to actual damages under 47-18-109(a)(1) and an additional two times that amount in the discretion of the Court if the violations were committed willfully or knowingly.

Utah
Utah Consumer Sales Practices Act, Utah Code Ann. §§ 13-11-1 to 13-11-23

67. Defendant has violated Utah Code Ann. § 13-11-4(1), entitling Class Members, who comprise persons and entities that made their purchases primarily for personal, family, or household

purposes, as provided by Utah Code Ann. § 13-11-3(2)(a)(i), to $2,000 under Utah Code Ann. § 13-11-19(2), and injunctive relief under Utah Code Ann. § Utah Code Ann. § 13-11-19(1)(b).

Vermont
Consumer Fraud Act, 9 Vt. Stat. Ann. §§ 2451-2480g

68. Defendant has violated 9 Vt. Stat. Ann. § 2453(a), entitling Class Members, who comprise persons and entities that made their purchases for personal or household use, or business use but not for resale, as provided by 9 Vt. Stat. Ann. § 2451a(a), to the value of the consideration given by the purchaser, exemplary damages not exceeding three times the value of such consideration, and appropriate equitable relief under 9 Vt. Stat. Ann. § 2461(b).

Virginia
Virginia Consumer Protection Act of 1977, Va. Code §§ 59.1-196 - 59.1-207

69. Defendant has violated Va. Code § 59.1-200(14), entitling Class Members, who comprise persons and entities that made their purchases for primarily for personal, family, or household purposes, as provided by Va. Code § 59.1-198, to $500, and an additional $500 if the trier of fact finds that the violations were committed willfully, under 59.1-204(A).

Washington
Unfair Business Practices - Consumer Protection Act,
Rev. Code Wash. §§ 19.86.010 - 19.86.920

70. Defendant has violated Rev. Code Wash. § 19.86.020, entitling Class Members to actual damages, an additional two times that amount in the discretion of the Court, and injunctive relief discretion under Rev. Code Wash. § 19.86.090.

West Virginia
West Virginia Consumer Credit and Protection Act, W. Va. Code §§ 46A-6-101 - 46A-6-110

71. Defendant has violated W. Va. Code §§ 46A-6-102(7)(M) and 46A-6-104, entitling Class Members to $200, and, in the discretion of the Court, such equitable relief as the Court deems

necessary or proper under W. Va. Code § 46A-6-106(a).

Wisconsin
Marketing and Trade Practices law, Wisc. Stat. §§ 100.01 - 100.60

72. Defendant has violated Wisc. Stat. § 100.18(1), entitling Class Members recover their pecuniary losses under Wisc. Stat. § 100.18(11)(b)(2).

Wyoming
Wyoming Consumer Protection Act, Wyo. Stat. §§ 40-12-101 to 40-12-114

73. Defendant has violated Wyo. Stat. § 40-12-105(a)(xv), entitling Class Members, who comprise persons who made their purchases primarily for personal, family, or household purposes as provided by Wyo. Stat. § 40-12-102(a)(ii), to actual damages under Wyo. Stat. § 40-12-108(a).

CLASS ALLEGATIONS

74. This action is brought pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure.

75. The Class comprises all persons who have participated, or who will participate, in the Applebee's Sweepstakes by visiting www.MyApplebeesVisit.com and completing a survey, beginning in or about February, 2011, and continuing until the resolution of this action ("Class Period").

76. The Class Members are so numerous that joinder of all of them is impracticable.

77. There are, upon information and belief, at least 50,000 Class Members whose claims are similar to Plaintiff's claims; and, furthermore, Plaintiff's claims are typical of the claims of the other Class Members.

78. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are antagonistic to, or in conflict with, the other Members of the Class. Indeed, Plaintiff's interests are, for purposes of this litigation, coincident with the interests of the other Class

Members.

79. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Because the Class is so numerous that joinder of all the Class Members is impracticable, and because the damages sustained by most of the individual Class Members are too small to render prosecution of the claims asserted herein economically feasible on an individual basis, the expense and burden of individual litigation makes it impractical for all of the Class Members to adequately address the wrongs complained of herein. Plaintiff knows of no impediments to the effective management of this action as a class action.

80. Common questions of law and fact predominate over questions that affect only individual Class Members. Among the questions of law and fact common to the Class are:

(i) whether Applebee's implies on its restaurant bills that, every day, an Applebee's Sweepstakes participant wins $1,000;

(ii) whether, in fact, an Applebee's Sweepstakes participant wins $1,000 every day;

(iii) whether Applebee's represents on its restaurant bills that multiple prizes in addition to the $1,000 prize are available to be won every day by Applebee's Sweepstakes participants;

(iv) whether, in fact, multiple prizes in addition to the $1,000 prize are available to be won every day by Applebee's Sweepstakes participants;

(v) whether Applebee's implies on its restaurant bills that eligibility to win a non-$1,000 prize is limited to Applebee's Sweepstakes participants;

(vi) whether, in fact, eligibility to win a non-$1,000 prize is limited to Applebee's Sweepstakes participants;

(vii) whether the completion of a survey by an Applebee's Sweepstakes participant is beneficial to Applebee's;

(viii) whether the retention by Applebee's of the benefits of the

Applebee's surveys constitutes unjust enrichment; and

(ix) whether the conduct of Applebee's constitutes violations of the consumer-protections statutes set forth herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

(a) Awarding, to Plaintiff and the other Members of the Class, damages equal to that amount by which Defendants were unjustly enriched under of the laws of each of each and the District of Columbia except Hawaii;

(b) Awarding, to Plaintiff and the other Members of the Class, damages and any other relief as authorized by the consumer-protections statutes set forth herein; and

(c) Awarding, to Plaintiff and the other Members of the Class, the costs and disbursements of this action, and reasonable attorney's fees under those consumer-protection statutes that provide for same, and such other and further relief as this Court deems just and proper.

Dated: March 1, 2012

Yours, etc.,

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